



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/284,024	04/06/1999	ULRICH DELIUS	051009/0119	1786

7590

03/29/2002

FOLEY & LARDNER
3000 K STREET NW SUITE 500
PO BOX 25696
WASHINGTON, DC 200078696

EXAMINER

HON, SOW FUN

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 03/29/2002

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/284,024

Applicant(s)

DELIUS, ULRICH

Examiner

Sow-Fun Hon

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 12-14 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Continued Prosecution Application

1. The request filed on 01/14/02 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/284,024 is acceptable and a CPA has been established. An action on the CPA follows.

Election/Restrictions

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-11, 15, 16, drawn to an article.

Group II, claim(s) 12-14, drawn to a method.

The inventions listed as Groups I, II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Claim 1 is obvious over Grund in view of Chacko et al. Accordingly, the special technical feature linking the two inventions, a biaxially stretched and thermoset, tubular, seamless, multiple-layer food casing having a residual shrinkage in the range of from 5 to 20 % at 80 °C, wherein the shrinkage is measured before stuffing, in which the layer or, in the case of multiple-layer casings, at least one of the layer comprises a block copolymer containing aliphatic polyamide blocks and soft aliphatic polyether blocks which block

Art Unit: 1772

copolymer corresponds to one of the formulae I to III in the disclosure, does not provide a contribution over the prior art, and no single inventive concept exists. Therefore, restriction is appropriate.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-11, 15,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grund (US 5,612,104) in view of Chacko et al. (US 4,970,274).

Grund has a multilayer polyamide film for use as a sausage casing (abstract). Grund teaches that a shrinkable casing may be manufactured wherein the shrinkage may be adjusted in the range between 0 to 20 %, measured in water at 80 °C (before stuffing) (column 7, lines 15-

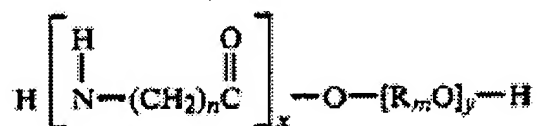
Art Unit: 1772

25). The casing is extruded through a heated ring die (annular slot die) and cooled rapidly to maintain the polymers in an amorphous state, and then heated and stretched by blow molding (hot air and simultaneous biaxial stretching by means of an entrapped air bubble (column 6, lines 50-68 and column 7, lines 1-15).

Grund teaches a mixture of partially aromatic polyamide and/or copolyamide in amounts to 60 %, and other layers of polyamide and polyolefin (column 5, lines 1-68 and column 6, lines 1-30). Grund, however, fails to teach the specific claimed copolyamide composition.

Chacko et al. discloses a copolyamide composition useful to form film. The composition comprises a block copolymer of a polyamide and a poly(amide-ether) block copolymer with the preferred formula below. The composition comprises from about 70 to about 98 % by weight of a polyamide such as nylon 6, nylon 6,6 nylon 12 and nylon 6,12 (column 2, lines 19-24).

Preferred polyether blocks are based on polyethylene glycol and polytetramethylene (polybutylene) glycol (column 2, lines 48-50). Chacko et al. teach the specific use of of Pebax 4011 based on nylon 6 and polyethylene glycol (column 6, lines 31-33). Colorants are minor additives taught to be of value in the composition (column 4, lines 16-19). The formula for the block copolymer is shown below.



Art Unit: 1772

where R is an alkyl or substituted alkyl group with from one to about 12 carbons, n is an integer from 2 to 20, and preferably 4 to 12, m is an integer from 2 to 6, preferably from 2 to 4, and x and y are numbers from about 50 to about 30,000 (column 1, lines 50-68 and column 2, lines 1-6).

Chacko et al. teaches that the film can be oriented by biaxial forming with methods well known to those skilled in the art, with draw ratios up to 6:1 (column 4, lines 51-55). The materials thus produced are formed into films by extruding a bubble (blowmolding) of film (column 9, lines 17-23). Chacko et al. teaches that the film conforms easily to a mold form and yet permits stretching of the film to conform to the mold under differential pressure (column 5, lines 26-35). Chacko et al. teaches that the films are used widely for food packaging (column 1, lines 25-30).

Because Chacko et al. teaches that the film, widely used for food packaging, is easily conformable, yet permits stretching, it would have been obvious to one of ordinary skill in the art to have used the specific block polyetheramides of Chacko et al. in the invention of Schumacher to obtain a sausage casing with the desired stretchable conformability.


Any inquiry concerning this communication should be directed to Sow-Fun Hon whose telephone number is (703)308-3265. The examiner can normally be reached Monday to Friday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (703)308-4251. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9310.

Art Unit: 1772

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

SH
03/21/02


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772 3/22/02